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Kathryn Hosford, Assistant for Land Mobile Services
Private Radio Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, NW
Room 5002
Washington, DC 20554

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Re: PR Docket No. 92-235
Ex Parte Comments

Dear Ms. Hosford:

As the Commission nears a decision in the "refarming" docket (PR Docket No. 92-235), Boston Sand and Gravel ("BSG") respectfully submits this ex parte filing to make known its views on a number of issues which the proposal to reform the private radio spectrum raises.

While BSG wholeheartedly applauds the Commission's efforts to improve the efficient use of radio spectrum, BSG urges that certain aspects of the refarming proposal be improved to better accommodate the critical radio operations of companies like BSG. Simply put, BSG would be unable to conform its equipment and operations to certain proposed Part 88 requirements without jeopardizing both the safety of individuals and the stability and competitiveness of BSG itself. The issues of greatest concern to BSG are the proposed power limitations and the proposed bandwidth reduction plan.

BSG has been a leader in the concrete and aggregate industry for over eighty years, supplying both municipal and private construction projects with needed sand, gravel, and stone. As one of the top ten industry facilities in the country, BSG has pioneered the concept of mobile communications in the sand and gravel transport business, investing and reinvesting years of capital earnings into its radio systems which it uses to communicate with its two hundred-truck fleet, its satellite plants, its marine barging and tug operations, and its railroad operations. This work is inherently dangerous, but vital to the continued safety and progress of the Boston Metropolitan area.

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BSG's varied customer base includes the City of Boston, for whom it is working on the MWRA Boston Harbor Clean-up Program and the massive Boston Central Artery/Tunnel project. BSG is a key player in projects such as the current construction of a new tunnel under Boston Harbor and the upgrading of Interstates I-90 and I-93.

BSG mobile radio systems perform an essential role in these and other BSG jobs, ensuring the safety of BSG employees, the sustained growth of the three-generation family-owned BSG business, and the continued provision of needed services to customers like the City of Boston. For example, the multitude of BSG trucks that serve the MWRA Boston Harbor Clean-up Program and the Boston Central Artery/Tunnel project rely upon BSG's mobile radios to remain in constant contact with BSG's home base (the Cambridge/Charlestown plant facility), allowing the efficient operation of the business. Hourly communications are necessary to coordinate the shipments of sand, stone and gravel to the home base from BSG's aggregate supply facilities in Ossipee, New Hampshire and Hookset, New Hampshire. Likewise, continuous mobile communications are required to coordinate and monitor delivery and transportation to and from BSG's affiliated Everett, Massachusetts waterfront site where materials are loaded for water transport. Timely delivery of these materials is vital to the safe and successful completion of large-scale construction projects.

Even more importantly, BSG's mobile communications provide for the safety of employees who work with heavy machinery and heavy, often unstable raw materials. Because of the nature of the industry, accidents can be life-threatening. Ready access to mobile radios can help crews avoid dangerous situations; and when accidents do occur, such access ensures that emergency service may be timely dispatched, thereby minimizing injury. Without the optimal performance which BSG mobile radios currently provide, the safety of its employees and the competitiveness of the company would be severely jeopardized.

Several proposals in PR Docket No. 92-235, if implemented, would substantially diminish BSG's level of employee safety, and its ability to provide much-needed service to customers like the City of Boston. For this reason, BSG respectfully urges that the Commission carefully reconsider its position on the two issues of greatest concern to BSG: (1) the proposed power limitations and (2) the proposed bandwidth reduction plan.

I. THE PROPOSED POWER REDUCTION SHOULD BE ELIMINATED.

- * BSG has spent over four decades and enormous amounts of money constructing a mobile communications system that is finally interference-free and both effective and efficient. To mandate that it begin making the equipment changes and

purchasing the necessary fill-in transmitters and repeater stations that the proposed rules contemplate would be of substantial detriment to BSG. The imposition of the momentous related costs that would arise in such a short time frame would not only hinder the competitiveness of the company, but would create danger to employees who rely on the ready availability of interference-free communications throughout the delivery zone, in the event of a worksite emergency.

- * The proposed effective radiated power (ERP) restriction is unreasonably low, would substantially reduce coverage areas, and would create the need for prohibitively expensive fill-in transmitters and additional repeater stations. Moreover, significant zoning and environmental restrictions may prevent BSG from finding intermediate sites. BSG therefore urges that the Commission eliminate its proposed power decrease.
- * Should the Commission, however, decide to implement a power reduction rule, BSG proposes that it implement a companion exception to the rule that would apply to industrial operations involving a substantial risk to life or health. Quarry, construction, and heavy transport businesses like BSG would be included within such an exception and would be exempted from the potentially interference-causing power reduction.
- * Yet another alternative approach, should the Commission decide to adopt a power reduction rule, would be for the Commission to do so in conjunction with the adoption of LMCC's proposed "safe harbor" table. BSG would support such action, as the LMCC table converts an otherwise unduly onerous power reduction into one which is more reasonably related to the actual needs of operators.
- * BSG wholeheartedly urges that the Commission either eliminate the proposed power limitations or create an exception for entities such as BSG. However, if the Commission chooses not to pursue either alternative, it is BSG's position that the Commission must, at a bare minimum, shift the proposed effective date to a date no earlier than three years from adoption of the rules. The Commission's proposed January 1, 1996 target date for all systems to meet the new power restrictions is now less than twelve months in the future, and it would be inequitable, at this late date, to adopt power limitation rules that become effective as soon as January 1, 1996.

II. THE BANDWIDTH REDUCTION PROPOSAL SHOULD BE MODIFIED

- * Boston Sand & Gravel concurs with the Land Mobile Communications Council in its belief that the proposed bandwidth reduction plan should be altered to achieve the

Commission's refarming goals on a more gradual, less financially destructive level than that proposed by the Commission.

- * In 1967 -- the last time the FCC reduced bandwidth -- BSG spent one quarter of a million dollars upgrading its system. Since then, BSG has expanded its operation and enlarged and enhanced its mobile communications system, retrofitting pursuant to the Commission's movement toward reduced bandwidth. Factoring in inflation together with the costs BSG has incurred by recently expanding its system, the additional expense of further narrowbanding by the Commission's originally proposed target date of 1996 would be virtually prohibitive for this family-owned and locally run business.
- * Notably, Boston Sand & Gravel does not completely oppose the concept of reducing bandwidth. However, the reduction should follow a different calendar than the one set forth in the proposed refarming plan, and should reflect the approximate timeframe within which equipment replacement would, on the average, become necessary anyway.
- * For this reason, BSG advocates the LMCC's recently proposed consensus plan which achieves the Commission's objectives over a more extended period that better reflects the normal equipment replacement cycle. Indeed, existing licensees that do not convert to 12.5 kHz equipment or its equivalent should not be prohibited from operating until January 1, 2007, and even then should only be restricted to the extent that they create interference. Conversion of existing systems to 6.25 kHz should be made mandatory no sooner than January 1, 2021, and only after a follow-up rule making by the Commission to examine the wisdom of this further reduction. This relaxed transition may allow many companies to delay equipment replacement until they are in a position to move directly to 6.25 kHz, which is a far more efficient outcome than two equipment changeouts over a relatively short time frame.


BSG respectfully requests that the Commission reconsider its proposed drastic shifts to lower power requirements and reduce bandwidths, and consider the public interest of the Boston community and the safety of the Boston citizens employed by BSG.

A lessening of the proposed power restrictions and a liberalization of the proposed narrowbanding timeframe will benefit not only BSG, but also the multitude of private companies nationwide whose valuable community services would be unnecessarily jeopardized by the Commission's proposed power limitations and bandwidth reduction scheme.

Sincerely,

BOSTON SAND & GRAVEL

By:


Donald McNutt
General Manager

February 21st, 1995